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Intergovernmental working group of experts
on human rights of migrants
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INFORMATION AND COMMENTS RECEIVED FROM GOVERNMENTS, UNITED NATIONS BODIES, SPECIALIZED AGENCIES, INTERGOVERNMENTAL AND NON-GOVERNMENTAL ORGANIZATIONS

Report of the Secretary-General

ANNEX

Submission from International Migrants Rights Watch Committee
dated 12 February 1998

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INTERNATIONAL MIGRANTS RIGHTS WATCH COMMITTEE

Response to:

UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

"Questionnaire on human rights of migrants"

The International Migrants Rights Watch Committee, the global independent expert body on migrants rights, submits the following in response to this questionnaire:

Regarding the questions:

1. *What are the latest figures or estimates for:*
- *total population, including non-nationals, preferably by nationality of origin;*
- *number of nationals abroad, preferably by country of residence;*
- *non-nationals having authorization to work in the country;*
- *estimate of irregular migrants, including visa abusers, by country of origin.*

Comprehensive and well-documented estimates on the number of migrants in countries around the world are provided by the regular reports of the UN Population Division. Its figures are drawn from national census information and indicate that there are some 120 million people residing in countries other than their own, either temporarily or permanently.

2. *What measures are being taken to strengthen the promotion, protection and implementation of the human rights of migrants, such as:*
- *legal measures;*
- *public information and education;*
- *provision of direct assistance and services;*
- *other measures, including bilateral and multilateral arrangements.*

The Migrants Rights Watch has already begun to compile reporting on the increasing activities of civil society organizations (NGOs and migrant groups in particular) to promote protection of the human rights of migrants.

In late 1996, a comprehensive survey of related NGO activity was conducted in the context of reviewing implementation of implementation of the Programme of Action adopted at the International Conference on Population and Development: Chapter X on International Migration. The responses were summarized in the Secretary General's Report to the 1997 Session of the UN

Commission on Population, "Activities of intergovernmental and nongovernmental organizations in the area of international migration" (E/CN.9/1997/5)

3. *Have there been manifestations (How many cases?) of racism, xenophobia and other forms of discrimination against migrans in your country and against your nationals in another country?*
The experience and work of IMRWC members clearly demonstrates that manifestations of racism, xenophobia and other forms of discrimination against migrants are increasing in countries now in every region of the world. Unfortunately, the IMRWC --founded only recently in 1994-- does not yet have the resources or capacity to develop an independent study of the nature or extent of the problem. IMRWC hopes that the expert working group will seek ways to ensure that such documentation is generated and analyzed, especially given the obvious intersection with the upcoming international conference on racism.

4. *What steps have been taken in order to ratify the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Labour Organization (ILO) Convention concerning Migration for Employment (Revised), 1949 (No. 97, and the ILO Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers, 1975 (No. 143)?*

NGOs, particularly migrant organizations and church groups, have already taken numerous actions to promote ratification and entry into force of the 1990 Convention. The IMRWC itself was founded as an expression of civil society concern and commitment to bring this major human rights instrument into force.

Migrants Rights Watch is proposing that a global campaign for entry into force of the 1990 Convention be organized and launched as soon as possible. It notes that, up to now, there has been no formal, international awareness building and advocacy campaign initiated.

Such a campaign will require cooperation and coordination of activities among international organizations --particularly the UN, governments, NGOs and migrant groups. It will require resources from concerned governments and foundations. And its success will depend on vigorous expressions of support from key opinion shapers and bodies, such as the UN Commission on Human Rights and the intergovernmental working group on migrants rights.

The 28 members of IMRWC have been providing active leadership in initiating advocacy for the Convention through their respective organizations and networks in all regions of the world.
Some have initiated national coalitions. Committee members in Colombia, the Philippines, Sri Lanka and Uganda were directly involved in national efforts that resulted in ratification of or accession to the 1990 Convention by those countries. For example, in the Philippines, IMRWC members established the Philippine Migrants Rights Watch Committee, which sensitized parliamentarians, the press and public opinion leading to that country's ratification. More detailed information on these activities can be provided.

An increasing number of NGOs are going on record in support of the 1990 Convention, and are beginning to form coalitions for more effective advocacy. Among these are most of the international church organizations, such as the Vatican, the World Council of Churches (WCC), the International Catholic Migration Commission (ICMC) the Middle East Council of Churches (MECC), and the Pacific Conference of Churches (PCC) and many Roman Catholic bishops conferences. Similarly, major international bodies of trade unions, notably the International Confederation of Free Trade Unions (ICFTU) and Public Services International (PSI) have similarly gone on record in support, and are urging national affiliates to do so.

NGOs have been long-concerned at the almost total absence of information and promotional materials on the Convention available from the UN itself. IMRWC members have prepared an organizers manual on promoting the Convention, which is to be published in March of this year. It is not seen, however, as a substitute for UN promotional material.

Trade union organizations have actively promoted ratification of the relevant ILO Conventions, particularly No. 97 and No. 143.

Terms of Reference

As a body of concerned advocates and specialists, Migrants Rights Watch is gravely concerned by the apparent implications and limitations posed in the working definition of migrants adopted by the inter-governmental expert working group. It defines migrants in a context solely "where the decision to migrate is taken freely...for reasons of personal convenience and without intervention of an external compelling factor."

Such a definition, in our view, would appear to exclude from consideration the situations of many if not most international migrants today. It appears to cast aside most international migrants to be found in especially vulnerable situations. It is clear from the direct experience of our own members that many of the women and children who have migrated across borders have done so for far more compelling reasons than "reasons of personal convenience."

Defining terms of reference for the group that appear to address only "voluntary" migration raises serious questions about whether the group will be able to present to the Secretary General and the Commission on Human Rights an adequate assessment of the obstacles to protection of the human rights of migrants. It also would seem to limit the group's ability to propose remedies which would really address the most serious problems, many of which we know from experience are faced by people whose migration has not been a matter of choice or convenience.

The statement of exclusion of "refugees, exiles or others forced or compelled to leave their homes" does not seem to be helpful. Many people migrate today to escape generalized human rights violations, civil war situations, collapse of state authority to protect its citizens, and environmental and economic catastrophes and economic collapse. People in any and all of

these categories are not covered --thus not accorded protection-- by the accepted international refugee definition contained in the 1951 Convention and 1967 Protocol on the Status of Refugees.

The Migrants Rights Watch supports an alternative working definition for the expert group being submitted by the World Council of Churches:

For the purpose of the work of this expert working group, the term migrant will refer to all individuals who cross borders to take up temporary or permanent residence in countries other than that of their nationality. Recognizing that certain categories of international migrants benefit from access to status providing varying measures of human rights protection (e.g. refugees, diplomats, persons with permanent residence status, etc.) the focus of this working group will be on individuals and groups with limited or no legal protection for their human rights.
Within the category of migrant, irregular or undocumented migrants must too be recognized, irregular migration being a phenomenon that is growing into a global crisis. As there is no existing international legal definition of migrant, this working definition intends neither to set a standard nor to address determination of motivations for migration.

Thank you for your consideration of these responses and concerns.

The IMRWC Executive Committee:

Yenny del Carmen Hurtado, Colombia
Joseph Oneka, Uganda
Cathi Tactaquin, USA
Mayan Villalba, Philippines
Patrick Taran, WCC Geneva
Sarah Stephens, Consultant

February 12, 1998